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ATTORNEY'S DOCKET NUMBER: 0342941-0104 (Myers 1747-00)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Myers *et al.*	Examiner	
Serial No.:	10/826,859	Art Unit	1614
Filing Date:	April 16, 2004		
Title:	*Saframycins, Analogues and Uses Thereof*		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL LETTER

Enclosed are the following documents:

1. Statement Under 37 CFR §§ 1.56, 1.57, & 1.98 (6 pages);
2. Form PTO-1449 (6 pages);
3. Cited Art (38); and
4. Return Postcard

If any additional fees are required to be paid or if any overpayment has been made, please charge same to Deposit Account No. 03-1721.

Respectfully submitted,

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Dated: 8/10/2004

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313
on 8-10-04
Sandra Saccoccia

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Title:	*Saframycins, Analogues and Uses Thereof*		

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

STATEMENT UNDER 35 CFR §§ 1.56, 1.97, & 1.98

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, Applicant requests consideration of this Information Disclosure Statement.

Type of Statement

The present Information Disclosure Statement is:

[X] An *original* Information Disclosure Statement; or

[ ] A *supplemental* Information Disclosure Statement.

Certificate of Mailing
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8-10-04 — Sandra Saccocia
Date — Signature

Sandra Saccocia
Typed or Printed Name of person signing certificate

Compliance with 37 CFR § 1.97

The present Information Disclosure Statement is being filed:

[X] Pursuant to 37 CFR § 1.97(b); no fee or certification is required:

[ ] Within three months of the filing date of a national application other than a continued prosecution application under § **1.53(d)**;

[ ] Within three months of the date of entry of the national stage as set forth in **§ 1.491** in an international application;

[X] Before the mailing of a first Office action on the merits; or

[ ] Before the mailing of a first Office action after the filing of a request for continued examination under § **1.114**.

[ ] Pursuant to 37 CFR § 1.97(c) after the dates listed above but before the mailing date of any of a final action under § **1.113**, a notice of allowance under § **1.311**, or an action that otherwise closes prosecution in the application; Applicant hereby *either*:

[ ] Certifies that *either*:

[ ] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the

knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § **1.56(c)** more than three months prior to the filing of the information disclosure statement.; or

[ ] Includes herewith the fee set forth in § **1.17(p)**.

[ ] Pursuant to 37 CFR § 1.97(d), after the mailing date of any final action under § **1.113**, a notice of allowance under § **1.311**, or an action that otherwise closes prosecution in the application; Applicant hereby *both*:

[ ] Certifies that *either*:

[ ] each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement; or

[ ] That no item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing the certification after making reasonable inquiry, no item of information contained in the information disclosure statement was known to any individual designated in § **1.56(c)** more than three months prior to the filing of the information disclosure statement.; and

[ ] Includes herewith the fee set forth in § **1.17(p)**.

Content of the Information Disclosure Statement

Applicant hereby makes of record in the above-identified application the reference(s) listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

Applicant includes copies of references as indicated below:

[ ] A copy of each cited reference not indicated with an asterisk is included;

[X] Copies of references indicated with an asterisk on the attached form PTO-1449 are not included pursuant to 37 CFR § 1.98(d) because they were previously provided to the United States Patent Office in an Information Disclosure Statement that complies with 37 CFR § 1.98(a)-(c) and was submitted in the following patent application that is relied upon in the present case for an earlier effective filing date under 35 USC § 120:

Serial Number	Filing Date	Status
10/011,466	November 5, 2001	Pending

[ ] Copies of English translations of one or more non-English references are included.

Applicant hereby makes the following additional information of record in the above-identified application:

Applicant certifies that the Information Disclosure Statement *either*:

[ ] Does not contain non-English language citations;

[ ] Does contain non-English language citations, of which the following is a concise

explanation:

[ ] Includes one or more translations of a non-English citation.

Remarks

The submission of this Information Disclosure Statement should not be construed as a representation that a search has been made.

The submission of this Information Disclosure Statement shall not be construed to be an admission that the information cited in the statement is, or is considered to be, material to patentability as defined in **§ 1.56**(b) .

The submission of this Information Disclosure Statement shall not be construed as a representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;

2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited patent(s) and publication(s) has (have) been fully considered by the Patent and Trademark Office during the examination of this application; and

3. The citations for the patent(s) and publication(s) be printed on any patent which issues from this application.

Notwithstanding any statements by Applicants, the Examiner is urged to form his or her own conclusions regarding the relevance of the cited reference(s).

Respectfully submitted,

C. Hunter Baker, M.D., Ph.D.
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Dated: 8/10/2004

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Form PTO-1449 (REV. 8-83)	U.S. Department of Commerce Patent and Trademark Office	Atty. Docket: 0342941-0104 (Myers 1747-00)	In re Application No. 10/826,859
INFORMATION DISCLOSURE STATEMENT *(Use several sheets if necessary)*		Applicant: Myers *et al.*	
		Filing Date: April 16, 2004	Group: 1614

OIPE JC185 AUG 1 2 2004 PATENT & TRADEMARK OFFICE

U.S. PATENT DOCUMENTS

Examiner's Initials	U.S. Patent No.	Applicant	Issue Date	Class	Subclass
	*6,569,859	Corey	May 27, 2003	514	250
	*6,348,467	Corey	February 19, 2002	514	250
	*6,316,214	Rinchart et al.	November 13, 2001	435	25
	6,258,539	Hunkapiller et al.	July 10, 2001	435	6
	*6,124,293	Rinchart et al.	September 26, 2000	514	250
	*6,124,292	Corey	September 26, 2000	514	250
	5,939,273	Lussow et al.	August 17, 1999	435	7.1
	5,786,461	Buchardt et al.	July 28, 1998	536	18.7
	*5,834,228	Becker et al.	November 10, 1998	435	23
	5,773,571	Nielsen et al.	June 30, 1998	530	300
	*5,721,362	Corey et al.	February 24, 1998	540	466
	5,652,355	Metelev et al.	July 29, 1997	536	24.5
	5,646,260	Letsinger et al.	July 8, 1997	536	23.1
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	International Search Report issued for corresponding PCT application PCT/US01/47399.

EXAMINER	**DATE CONSIDERED**

EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

3711991

U.S. PATENT APPLICATIONS					
Examiner's Initials:	Publication Number:	Applicant:	Publication Date:	Group:	Art Unit:
	US2003/0083495	Corey	May 1, 2003		

FOREIGN PATENT DOCUMENTS					
Examiner's Initials	Document No.	Country	Date	Translation	
				Yes	No
	*DE 28 39 668	Germany			
	*EP 0 329 606	Europe	03 February 1989		
	*EP 0 233841	Europe	12 December 1987		
	*EP 0 173 649	Europe	26 August 1985		
	*JP 63-2991	Japan	07 January 1988		
	*JP 61-58593	Japan	25 March 1986		
	*JP 57-50896	Japan	25 March 1982		
	*JP 56-135486	Japan	22 October 1981		
	*WO 01/87895	International	22 November 2001		
	*WO 01/87894	International	22 November 2001		
	*WO 01/53299	International	26 July 2001		
	*WO 01/19824	International	22 March 2001		
	*WO 00/69862	International	23 November 2000		
	*WO 00/18233	International	06 April 2000		
	*WO 98/12198	International	26 March 1998		

OTHER DOCUMENTS	
Examiner's Initials	Citation (Including Author, Title, Date, Pertinent Pages, Etc.)
	*Arai, et al., "Increased Production of Saframycin A and Isolation of Saframycin S", *The Journal of Antibiotics*, **XXXIII**(9): 951-960, 1980.
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